

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.4740 of 1996

Between:

The Association of Assistant Public Prosecutors rep.by its General Secretary.

...PETITIONER

AND

1. The Government of A.P., Rep.by its Secretary, Home (Courts-C)
Department, Secretariat, Hyderabad.
2. The Government of A.P., Rep.by its Secretary (Law) Department,
Secretariat, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ order or direction (a) declaring G.O.Ms.No.188, dt.30-3-1992, to the extent it provides for deputation of persons from Judicial Officers for filling up the posts falling under Categories 1 to 4 as illegal, irrational and arbitrary (b) declaring the inaction of the respondents in not effecting promotions of the eligible Senior Assistant Public Prosecutors to the Posts of Addl.P.Ps.Grade-II and Addl.P.Ps Grade-I/Deputy Director of Prosecutors w.e.f coming into force of G.O.ms.no.188 dt.30-3-1992 as illegal, and arbitrary and consequently direct the respondents to give notional promotions to all the Senior Assistant Public Prosecutors who have already completed 5 years of service in the said post, to the posts of Addl.Public Prosecutor Grade-I/Deputy Director of Prosecution,' w.e.f the dates of their completion of 5 years as Senior Assistant A.P.Ps subject to the availability of vacancy.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondents: GP FOR HOME (Not Present)

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.4740 of 1996

ORDER:

Heard the learned counsel for the petitioner. None appears on behalf of the respondents.

The petitioner herein, which is an Association of Assistant Public Prosecutors, filed this Writ Petition *inter alia* seeking a writ of mandamus to assail G.O.Ms.No.188, Home (Courts.C) Department, dated 30.03.1992, to the extent of denying them the promotional avenues to the Categories I to IV as contemplated there under and consequently to provide such avenues to them.

The case of the petitioner in brief is that having regard to the formation of the Director of Prosecutor under the impugned G.O., various Categories have been made on which it includes Categories I to IV namely, Director of Prosecution, Additional Director of Prosecution, Joint Director of Prosecution and Deputy Director of Prosecution. This is followed by Categories V to VII which includes Additional Public Prosecutors-Grade II, Senior Assistant Public Prosecutor and Assistant Public Prosecutor respectively. The complaint of the petitioner is that the promotional avenues have been made clear upto Category V, but not beyond.

Especially when such an institution is sought to be created to ameliorate the conditions of the services of the Public Prosecutors, other Public Prosecutors' promotions have to be promoted to Categories even. Therefore, there is no justification in denying such avenues to the Categories I to IV. Hence, the present Writ Petition is filed.

In the counter-affidavit filed on behalf of the respondents herein, it is submitted that under the impugned G.O. having made various Categories, the petitioners cannot make any claim for such promotion and further, they do not have any right as such as held in ***K.J. John, Assistant Public Prosecutor, Grade-I, Palai v. The State of Kerala***. Therefore, the petitioners have absolutely failed to make out any valid contention to seek any such relief. Further, they do not have any enforceable right to invoke extraordinary jurisdiction of this Court.

Considering the submissions made and also on perusal of the material available on record, it is seen that the role of the petitioners played is against the denial of the promotional avenues to the Categories I to IV as contemplated under the impugned G.O. It is now well established that no person or any employee has got any enforceable right for creation of a post nor for promotion as such, as held in the aforesaid decision. Further, as a policy the said Rules have been framed and institutions like Director of Prosecution has been constituted for ameliorating the conditions of services of the Public Prosecutors and also for their better management. Further, the very appointment of the Judicial Officers in Categories I to IV, is only to see that proper care is taken in regard to the various service conditions of the Public Prosecutors. Having regard to the same, it cannot be said that the

petitioners have got any enforceable right to invoke the jurisdiction of Article 226 of the Constitution of India. Hence, I do not find any merits in the above Writ Petition.

The Writ Petition is accordingly dismissed. It shall however open to the petitioner/association herein to pursue with the first respondent for any such relief to which they are entitled to, under the law.

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(B.PRAKASH RAO, J)

29th November 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Government of A.P., Home (Courts-C) Department, Secretariat, Hyderabad.
2. The Secretary, Government of A.P., Law Department, Secretariat, Hyderabad.
3. Two CD copies.